

The opinion in support of the decision being entered today is not binding precedent of the Board.

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Paper

By: Trial Section Merits Panel
Board of Patent Appeals and Interferences
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GENCELL S.A.

Junior Party
U.S. Patent 6,127,175

v.

IMRE KOVESDI, DOUGLAS E. BROUGH, DUNCAN L. McVEY,
JOSEPH T. BRUDER and ALENA LIZONOVA

Junior Party,
Application 08/258,416

v.

GENCELL S.A.

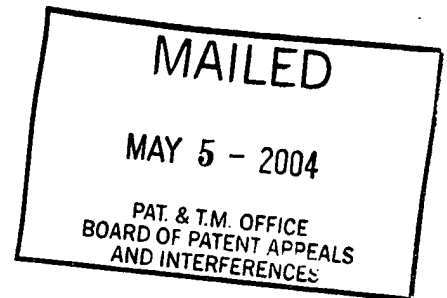
Senior Party
Application 08/397,225

Patent Interference No. 104,829 (CAS)

Before: TORCZON, SPIEGEL and LANE, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT -- RULE 640



Pursuant to the "Order to Show Cause" dated September 16, 2003 (Paper 80) and in view of the "Order Redeclearing Interference" dated September 16, 2003 (Paper 79), the "Communication Suspending Final Judgment Against Gencell/Vigne" dated October 7, 2003 (Paper 81) and the Rule 662 Judgment against party Kovesdi dated May 5, 2004 (Paper 92), it is

ORDERED that judgment on priority as to Counts 3 and 4 (Paper 79, pp. 2-4) is awarded against junior party EMMANUELLE VIGNE, MICHEL PERRICAUDET, JEAN-FRANÇOIS DEDIEU, CÉCILE ORSINI, PATRICE YEH, MARTINE LATTA and EDOUARD PROST (Gencell/Vigne).

FURTHER ORDERED that junior party EMMANUELLE VIGNE, MICHEL PERRICAUDET, JEAN-FRANÇOIS DEDIEU, CÉCILE ORSINI, PATRICE YEH, MARTINE LATTA and EDOUARD PROST (Gencell/Vigne) is not entitled to a patent containing

(i) claim 33 (corresponding to Count 3) and

(ii) claims 1-6, 11-21 and 23-25 (corresponding to Count 4)

of U.S. Patent 6,127,175, issued October 3, 2000, based on U.S. application 08/875,223, filed July 17, 1997.¹ (Paper 79, pp. 2-4).

FURTHER ORDERED that a copy of this paper shall be made of record in the files of U.S. patent 6,127,175, U.S. application 08/258,416 and U.S. application 08/397,225.

¹ Vigne claims 7-10, 22 and 26-32 do not correspond to any of Counts 1 through 6 and, therefore, are not involved in the interference (Paper 79, p. 4).

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.


SALLY GARDNER LANE
Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

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